

HOUSE BILL NO. 608

INTRODUCED BY D. HAINES

BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES
AND COMMERCE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A PROCEDURE FOR RECORDING NONMONETARY
SETTLEMENTS OF CONTESTED CASES; AMENDING SECTIONS 2-4-603 AND 17-2-102, MCA; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-4-603, MCA, is amended to read:

**"2-4-603. Informal disposition and hearings -- waiver of administrative proceedings -- recording
and use of settlement proceeds.** (1) (a) Unless precluded by law, informal disposition may be made of any
contested case by stipulation, agreed settlement, consent order, or default.

(b) Unless otherwise provided by law, if a stipulation, agreed settlement, consent order, or default
results in a monetary settlement involving an agency or the state, ~~the settlement proceeds, including cash
or other assets, whether received by the state or a third party,~~ must be ~~recorded~~ deposited in the account
or fund in which the penalty, fine, or other payment would be ~~recorded~~ deposited if the contested case
had proceeded to final decision. If there is no account or fund designated for ~~recording of a~~ the fine,
penalty, or payment in the type of action, then the settlement must be ~~recorded~~ deposited in the general
fund. ~~The provisions of this section do not apply to the portions of a settlement negotiated on behalf of
or paid to a party other than the state.~~

(c) If a stipulation, agreed settlement, consent order, or default results in a nonmonetary
settlement involving an agency or the state, settlement proceeds, whether received by the state or a third
party, must be recorded in a nonstate, nonfederal state special revenue account established pursuant to
17-2-102(1)(a)(ii)(A) for the purpose of recording nonmonetary settlements.

(2) Except as otherwise provided, parties to a contested case may jointly waive in writing a formal
proceeding under this part. The parties may then utilize informal proceedings under 2-4-604. Parties to
contested case proceedings held under Title 37 or under any other provision relating to licensure to pursue

1 a profession or occupation may not waive formal proceedings.

2 (3) If a contested case does not involve a disputed issue of material fact, parties may jointly
3 stipulate in writing to waive contested case proceedings and may directly petition the district court for
4 judicial review pursuant to 2-4-702. The petition must contain an agreed statement of facts and a
5 statement of the legal issues or contentions of the parties upon which the court, together with the
6 additions it may consider necessary to fully present the issues, may make its decision."

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8 **Section 2.** Section 17-2-102, MCA, is amended to read:

9 **"17-2-102. Fund structure.** (1) For the purpose of ensuring strict accountability for all revenue
10 received and spent, there are in the state treasury only the following fund categories and types:

11 (a) the governmental fund category, which includes:

12 (i) the general fund, which accounts for all financial resources except those required to be
13 accounted for in another fund;

14 (ii) the special revenue fund type, which accounts for the proceeds of specific revenue sources
15 (other than expendable trusts or major capital projects) that are legally restricted to expenditure for
16 specified purposes. The financial activities of the special revenue fund type are subdivided, for operational
17 purposes, into the following funds to serve the purpose indicated:

18 (A) The state special revenue fund consists of money and other proceeds from state and other
19 nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying
20 particular costs of an agency, program, or function of state government and money and other proceeds
21 from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such
22 as a contract, trust agreement, or donation.

23 (B) The federal special revenue fund consists of money deposited in the treasury from federal
24 sources, including trust income, that is used for the operation of state government.

25 (iii) the capital projects fund type, which accounts for financial resources to be used for the
26 acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust
27 funds; and

28 (iv) the debt service fund type, which accounts for the accumulation of resources for and the
29 payment of general long-term debt principal and interest;

30 (b) the proprietary fund category, which includes:

(i) the enterprise fund type, which accounts for operations:

(A) that are financed and operated in a manner similar to private business enterprises whenever the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges; or

(B) whenever the legislature has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes; and

(ii) the internal service fund type, which accounts for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursed basis;

(c) the fiduciary fund category, which includes trust and agency fund types used to account for assets held by state government in a trustee capacity or as an agent for individuals, private organizations, other governmental entities, or other funds. These include the:

(i) expendable trust fund type;

(ii) nonexpendable trust fund type;

(iii) investment trust fund type;

(iv) pension trust fund type; and

(v) agency fund type.

(d) the higher education funds, which include:

(i) the current fund, which accounts for money deposited in the state treasury that is used to pay current operating costs relating to instruction, research, public service, and allied support operations and programs conducted within the Montana university system. The financial activities of the current fund are subdivided, for operational purposes, into the four following subfunds to serve the purpose indicated:

(A) The unrestricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations and is free of externally imposed restrictions, except those imposed by the legislature.

(B) The restricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations but only for purposes imposed by sources external to the board of regents and the legislature.

(C) The designated subfund segregates that portion of the current fund's financial resources that is associated with general operations but is separately classified in order to accumulate costs that are to be recharged as allocated to other funds or subfunds, identifies financial activities related to special organized activities of educational departments in which the activity is fully supported by supplemental assessments, and identifies special supply and facility fees that are approved for collections beyond normal course fees and their disposition.

(D) The auxiliary subfund segregates that portion of the current fund's financial resources that is devoted to providing essential on-campus services primarily to students, faculty, or staff wherein a fee, which is directly related to but does not necessarily equal the cost of the service provided, is charged to the consumer.

(ii) the student loan fund, which accounts for money deposited in the state treasury that may be loaned to students, faculty, or staff for purposes related to education, organized research, or public services by the Montana university system;

(iii) the endowment fund, which accounts for money deposited in the state treasury by the Montana university system wherein the principal portion of the amount received is nonexpendable but is available for investment, thus producing consumable income. Expendable earnings on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing administrative requirements.

(iv) the annuity and life income fund, which accounts for money deposited in the state treasury by the Montana university system under an agreement whereby the money is made available on condition that the receiving unit of the Montana university system binds itself to pay stipulated amounts periodically to the donor or others designated by the donor over a specified period of time;

(v) the plant fund, which accounts for those financial resources allocated to or received by the Montana university system for capital outlay purposes or to retire long-term debts associated with construction or acquisition of fixed assets and the net accumulative results of these activities; and

(vi) the agency fund, which accounts for money deposited in the state treasury wherein the Montana university system acts in the capacity of a custodian or fiscal agent for individual students, faculty, staff, and qualified organizations.

(2) In addition to the funds provided for in subsection (1), there are in the state treasury the following account groups:

(a) the fixed assets account group, which is a self-balancing group of accounts set up to establish

1 accounting control and accountability for the state's general fixed assets, except those accounted for in
2 proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D),
3 (1)(d)(iii), and (1)(d)(v); and

4 (b) the long-term debt account group, which is a self-balancing group of accounts set up to
5 establish accounting control and accountability for the state's unmatured general long-term liabilities,
6 except those accounted for in proprietary funds, trust funds, and the higher education funds designated
7 in subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v)."

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9 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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